IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4588 OF 2005

Dhanaji Shamrao Patil & anr. ..Petitioners.

Vs.

The State of Maharashtra & Ors. ..Respondents.

....

Mr.N.J.Patil for the Petitioners.

Mrs.S.S.Bhende, AGP for Respondent Nos.1 to 3 and 7.

Mr.M.L.Patil for Respondent Nos.4 and 5.

Mr.M.S.Lagu for Respondent No.6.

....

CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

25th October, 2005.

P.C. :

1. Rule. Learned AGP waives notice for Respondent Nos.1 to 3 and 7. Appearance put up on behalf of Respondent Nos.4 & 5 and 6. Respondent Nos.8 and 9 have been served, however, have not put in any appearance. Considering the order to be

passed fresh notice to Respondent Nos.8 and 9 dispensed with.

2. It is the case of the Petitioners that Petitioner No.1 was employed as junior clerk from 13th June, 1994 and Petitioner No.2 as Assistant Teacher from 12th June, 1995. It appears that there was a change in the management. When approval was sent that was not granted. Consequent thereupon a petition came to be filed before this Court being Writ Petition 2157 of 2005, wherein the management and teachers including Respondent Nos.8 and 9 were parties. By an order dated 8th April, 2005, a learned Bench of this Court directed the Education Officer to decide the representations of the Petitioners before it by giving a reasoned order.

3. Subsequent to the order of remand the matter was heard by Respondent No.3. The Petitioners herein applied to be added as a party and be heard. Their application was rejected on the ground that they were not parties in Writ Petition 2157 of 2005. Consequent thereafter the Education Officer has granted approval amongst

others to the appointment of Respondent Nos.8 and 9. The grievance of the Petitioners is that in fact they have been appointed first and shall be granted approval and not Respondent Nos.8 and 9.

4. Considering the controversy, the ends of justice will be met if the Petition is disposed of by issuing the following directions :

1. Respondent No.3 is directed to hear the representation of Petitioner Nos.1 and 2 and consider whether they are eligible to be approved;

2. Respondent No.3 while so deciding apart from hearing the Petitioners herein to also hear Respondent Nos.8 and 9 by issuing them a notice;

3. Respondent No.3 will also issue notice to the management of Shree Gajanan Shikshan Sanstha and hear their view on the matter.

4. The impugned order dated 31st May, 2005 in so far as Respondent Nos.8 and 9 are

concerned, is set aside.

Considering the affidavit filed on behalf of the State Government by Mr. A.G.Magdum and more specifically paragraph 2 of the said affidavit, Respondent No.3 to complete the enquiry and pass a reasoned order within a period of 12 weeks from today. Rule made absolute accordingly. There shall be no order as to costs.

(F.I. REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)